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SENATE BILL NO. 2985

Originated in Senate

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Secretary

SENATE BILL NO. 2985

AN ACT TO AMEND CHAPTER 931, LOCAL AND PRIVATE LAWS OF 2003, AS LAST AMENDED BY CHAPTER 921, LOCAL AND PRIVATE LAWS OF 2011, TO EXTEND UNTIL JULY 1, 2017, THE REPEAL DATE ON THE LAW THAT CREATES THE INDIANOLA TOURISM COMMISSION, PROVIDES FOR THE COMPOSITION OF THE COMMISSION, PRESCRIBES THE POWERS AND DUTIES OF THE COMMISSION AND AUTHORIZES THE GOVERNING AUTHORITIES TO LEVY A TAX TO FUND THE COMMISSION; TO REQUIRE AN ELECTION ON THE CONTINUATION OF THE TAX IF A CERTAIN NUMBER OF ELECTORS FILE A WRITTEN PROTEST AGAINST THE CONTINUATION OF THE TAX; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Chapter 931, Local and Private Laws of 2003, as amended by Chapter 959, Local and Private Laws of 2007, as amended by Chapter 921, Local and Private Laws of 2011, is amended as follows:

Section 1. For the purposes of this act, the following terms shall have the following meanings:

(a) "Bar" means any bar, tavern or lounge where alcoholic beverages are sold for consumption on the premises;

(b) "Commission" means the Indianola Tourism Commission;

(c) "City" means the City of Indianola, Mississippi;

(d) "Governing authorities" means the Mayor and Board of Aldermen of the City of Indianola;

(e) "Hotel" or "motel" means any establishment engaged in the business of furnishing or providing rooms intended or designed for lodging or sleeping purposes for transient guests, which establishment consists of ten (10) or more guest rooms and does not encompass any hospital, convalescent or nursing home or sanitarium, or any hotel-like facility operated by or in connection with a hospital or medical clinic providing rooms exclusively for patients and their families;

(f) "Prepared food" means food prepared on the premises of a restaurant; and

(g) "Restaurant" means any place, including hotel and motel dining rooms, cafeterias, cafes and lunch stands, where prepared food and drink are sold for consumption either upon or off the premises.

Section 2. (1) There is created the Indianola Tourism Commission which shall be domiciled in Indianola, Mississippi. The commission shall function in an advisory capacity as a part of the executive branch of the municipal government of the City of Indianola and shall study and advise the executive branch in the areas of promoting conventions and tourism. The commission may carry out other tasks as the mayor, by executive order, may assign to it from time to time. The city attorney shall be the attorney for the commission.

(2) The commission shall be composed of the following members:

(a) One (1) member from each of the five (5) wards in the city to be chosen by the board of aldermen. The mayor may nominate persons and each alderman may nominate one (1) person from his or her ward;

(b) A member of the executive committee of the Indianola Chamber of Commerce selected by the executive committee, who shall serve as an ex officio voting member;

(c) A member of the Board of B.B. King Museum Foundation, to be selected by that board, who shall serve as an ex officio voting member;

(d) A representative of the owners of hotels/motels operating within the City of Indianola to be chosen by the board of aldermen. The mayor may nominate a person and each alderman may nominate a person from his or her ward; and

(e) A representative of the owners of restaurants and bars operating within the City of Indianola to be chosen by the board of aldermen. The mayor may nominate a person and each alderman may nominate a person from his or her ward.

(3) The five (5) appointed members of the commission who represent the five (5) city wards and the two (2) members appointed to represent the hotel/motel owners and restaurant/bar owners shall each serve a one-year term of office beginning and ending on dates established by the board of aldermen. The members

from the Chamber of Commerce and the B.B. King Museum Foundation shall serve so long as they hold their respective positions with the organization they represent. Vacancies on the council shall be filled in the same manner as the original appointment for the unexpired term.

(4) Any member may be disqualified and removed from office for conviction of a felony or for failure to attend three (3) consecutive meetings without just cause.

(5) Before entering on the duties of office, each member shall enter into and give bond to be approved by the Secretary of State in the sum of Twenty-five Thousand Dollars (\$25,000.00), conditioned on the satisfactory performance of his duties. This bond premium shall be paid from the commission's funds. Such bond shall be payable to the county and in the event of a breach thereof, suit may be brought by the county for the benefit of the council.

(6) When the members of the commission have been appointed and qualified, they shall meet in the City of Indianola after giving not less than ten (10) days' notice of the time and place of the meeting by registered mail, postage prepaid, directed to each member of the commission at his regular address at the time of his qualification and posting bond. The notice shall be given by the Mayor of Indianola. The notice of such meeting may be waived if all members sign a written waiver of notice. Any waiver shall be attached to the minutes of the meeting.

(7) The members shall elect from among themselves a chairman. The chairman of the commission shall serve a term of not more than one (1) year, with the first election to be held at the first scheduled meeting after the members are appointed and subsequent elections shall be held annually thereafter. The person elected as chairman may serve consecutive terms. The commission shall elect from its membership a vice chairman, secretary and treasurer. The offices of secretary and treasurer may be combined, if the commission elects. The commission may promulgate and adopt bylaws governing its operations and procedures. Five (5) members shall constitute a quorum for the transaction of any business of the commission.

Section 3. The council shall be domiciled in the City of Indianola, Mississippi, and shall have the following powers:

(a) To exercise authority over matters related to establishing, promoting and developing tourism and economic development within the City of Indianola;

(b) To acquire, own, lease, furnish, equip, staff and operate any and all facilities and equipment necessary or useful in the promotion of tourism and economic development within the city;

(c) To receive and expend revenues from any sources;

(d) To own, lease or contract for any equipment or office space useful and necessary in the promotion of tourism and economic development;

(e) To sell, convey or otherwise dispose of all or any part of its property and assets in accordance with the general laws of the State of Mississippi providing for such disposal;

(f) To contribute funds for the operation of any visitor information center in the designated area for the repair, restoration and maintenance of buildings and grounds owned by governmental entities and nonprofit corporations which would tend to promote tourism or economic development in the city and the county; and

(g) To have and exercise all powers necessary or convenient to effect any and all of the purposes for which the council is organized.

Section 4. (1) For the purpose of providing funds for the promotion of tourism and economic development in the City of Indianola, the governing authorities of the City of Indianola, Mississippi, are authorized, in their discretion, to levy and collect a tax upon every person, firm or corporation operating a hotel or motel in the City of Indianola, Mississippi, which shall be in addition to all other taxes and assessments imposed, which shall not exceed two percent (2%) of the gross proceeds of sales derived from room rentals of such hotels or motels.

(2) In addition to the authority in subsection (1) of this section, the governing authorities of the City of Indianola, Mississippi, are authorized, in their discretion, to levy and collect a tax upon every person, firm or corporation operating a

restaurant or bar in the City of Indianola, Mississippi, which shall be in addition to all other taxes and assessments imposed, which shall not exceed two percent (2%) of the gross proceeds of restaurant sales of prepared food, beer or any other alcoholic beverage.

(3) Persons, firms or corporations liable for the tax imposed under subsections (1) and (2) of this section shall add the amount of the tax to the sales price and shall collect, insofar as is practicable, the amount of the tax due by him from the person receiving the services or product at the time of payment.

(4) Such tax shall be collected by and paid to the Department of Revenue on a form prescribed by the Department of Revenue in the same manner that state sales taxes are computed, collected and paid; and the full enforcement provisions and all other provisions of Chapter 65, Title 27, Mississippi Code of 1972, shall apply as necessary to the implementation and administration of this act.

(5) The proceeds of the tax, less three percent (3%) which shall be retained by the Department of Revenue to defray the costs of collection, shall be paid to the governing authorities on or before the fifteenth day of the month following the month in which they are collected.

(6) The proceeds of the tax shall not be considered by the City of Indianola as general fund revenues but shall be dedicated to and expended solely for the purposes specified in this section.

(7) The tax may be discontinued by the adoption of a resolution to that effect by the Mayor and Board of Aldermen of the City of Indianola. The resolution shall be effective on the last day of a month and a certified copy of such resolution shall be furnished to the Commissioner of Revenue.

Section 5. (1) Before the tax authorized by this act may be imposed, the governing authorities shall adopt a resolution declaring their intention to levy the tax, setting forth the amount of such tax and establishing the date on which the tax initially shall be levied and collected. Notice of the proposed tax shall be published once each week for at least three (3) consecutive weeks in a newspaper having a general circulation in the City of Indianola. The advertisement shall be no less than one-fourth (1/4) page in size and the type shall be no smaller than eighteen (18) point and surrounded by a one-fourth inch (1/4") solid black border. The first publication of the notice shall be made not less than twenty-one (21) days before the date fixed in the resolution on which the tax initially is to be levied and collected, and the last publication of the notice shall be made not more than seven (7) days before the date. If, within the time of giving notice, twenty percent (20%) or fifteen hundred (1500), whichever is less, of the qualified electors of the City

of Indianola file a written petition against the levy of the tax, then the tax shall not be levied unless authorized by a majority of the qualified electors of the City of Indianola, voting at an election to be called and held for that purpose. At least thirty (30) days before the effective date of the tax, the governing authorities shall furnish to the Department of Revenue a certified copy of the resolution evidencing such tax.

(2) If the tax levied under this chapter was imposed without a vote of the electorate, the governing authorities shall, within sixty (60) days after the effective date of Senate Bill No. 2985, 2014 Regular Session, by resolution spread upon its minutes, declare the intention of the governing authorities to continue imposing the tax and describe the tax levy including the tax rate, annual revenue collections and the purposes for which the proceeds are used. The resolution shall be published once a week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in the municipality, with the first publication to be made within fourteen (14) days after the governing authorities adopt the resolution declaring their intention to continue the tax. If, on or before the date specified in the resolution for filing a written protest, which date shall be not less than forty-five (45) days and not more than sixty (60) days after the governing authorities adopt the resolution; twenty percent (20%) or one thousand five hundred (1,500), whichever is less, of the qualified electors of the

municipality file a written protest against the imposition of the tax, then an election upon the levy and assessment of the tax shall be called and held as in the manner provided for in subsection (1) of this section, with the election to be conducted at the next special election day as such is defined by Section 23-15-833, Mississippi Code of 1972, occurring more than sixty (60) days after the date specified in the resolution for filing a written protest. If the majority of qualified electors vote against the imposition of the tax, the tax shall cease to be imposed on the first day of the month following certification of the election results by the election commissioners of the municipality to the governing authorities. The governing authorities shall notify the Department of Revenue of the date of the discontinuance of the tax and shall publish sufficient notice thereof in a newspaper published or having a general circulation in the municipality. If no protest is filed, then the governing authorities shall state that fact in their minutes and may continue the levy and assessment of the tax.

This subsection shall not apply if the revenue from the tax authorized by this chapter has been contractually pledged for the payment of debt incurred prior to the effective date of Senate Bill No. 2985, 2014 Regular Session, until such time as the debt is satisfied. Once the debt has been satisfied, the governing authorities shall, within sixty (60) days, adopt a resolution declaring the intention of the governing authorities to continue

the tax which shall initiate the procedure described in subsection (1) of this section.

Section 6. (1) The commission annually shall adopt a budget of receipts and expenditures. The first budget of receipts and expenditures shall be prepared and adopted by the commission within thirty (30) days after the election of its first chairman and, upon approval by the Mayor and Board of Aldermen of the City of Indianola, the budget shall constitute the budget for the remainder of the current fiscal year. Thereafter, the budget shall be on the same fiscal year basis as the budget of the city. The annual proposed budget of the council shall be submitted to the Mayor and Board of Aldermen of the City of Indianola for review and, upon approval by the mayor and board of aldermen, such budget shall constitute the budget of the commission for that fiscal year.

(2) The commission may borrow money to pay its operating obligations that cannot be paid at maturity out of current revenue from the tax authorized in this act, but the amount so borrowed shall in no case exceed the estimated income of the commission as shown by the budget adopted prior to that time, and the tax income of the commission, as shown by the budget, shall be dedicated and set aside to the payment of the indebtedness.

(3) The books of the council shall be audited annually by an independent certified public accountant who shall make a written report of his audit to the council and submit a copy of such

report to the governing authorities of the City of Indianola and the State Department of Audit. Such audit shall be made and completed as soon as practicable after the close of the fiscal year and copies of the report of the audit shall be filed with the city and State Department of Audit within fifteen (15) days after receipt by the council.

Section 7. This act shall be repealed from and after July 1, * * * 2017.

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SECTION 2. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 17, 2014




PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 25, 2014



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

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